IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15786 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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Whether Reporters of Local Papers
1 may be allowed to see the
judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

Whether this case involves a
substantial question of law as to
4 the interpretation of the
constitution of India, 1950 or any
order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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N.D.BARIYA - Petitioner(s)
Versus
STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR UA TRIVEDI for the Petitioner
MS NANDINI JOSHI for the Respondents

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date : 05/08/2005

ORAL JUDGMENT

1. Rule. Ms.Nandini Joshi, learned Assistant Government Pleader waives service of notice of rule on behalf of the respondents. The matter is taken up for final hearing today.

2. By filing this petition, the petitioner has prayed that during pendency of the departmental inquiry, petitioner may be promoted to the post of Police Inspector, subject to the final outcome of the departmental inquiry. Alternatively, it is prayed that the departmental inquiry may be expedited.

3. At the relevant time, the petitioner was serving as Police Sub Inspector at Palej police Station. At that time, he was subjected to charge sheet on the ground that he had not taken appropriate care in organizing raid successfully at a place wherein Gambling activity was going

on.

4. It is alleged against the petitioner that he was negligent in performing his duties therefore, inquiry was initiated against the petitioner and he was transferred from Palej to Aamod. It is submitted by learned advocate for the petitioner that in the meanwhile, department has promoted some of his juniors on the post of Police Inspector and in view of the inquiry pending against the petitioner, his case is not considered for promotion. It is prayed that by issuing suitable writ or order, this Court may direct the respondents to promote the petitioner as Police Inspector.

5. In my view, this Court cannot give any direction that the petitioner should be promoted straightaway on the post of Police Inspector during the pendency of the departmental inquiry. However, considering the fact that the inquiry in pending as back as from October, 2003 and as

argued by Mr.Trivedi that it would be just and proper if the department may be directed to complete the departmental inquiry expeditiously.

6. The respondent department is directed to complete the departmental inquiry of the petitioner expeditiously, in any case by 31st October 2005. Learned AGP Ms.Nandini Joshi who is appearing on an advance copy may communicate this order to the concerned department. It is need less to say that if the petitioner is exonerated, his case for promotion as Police Inspector may be considered in accordance with law and question of deemed date may also be considered appropriately and in accordance with law. If during the pendency of the departmental inquiry, question of giving promotion on the said post arises, case of the petitioner may be considered in accordance with law and process of sealed cover may be followed, if not followed so far.

7. In view of the aforesaid directions, petition is partly allowed. Rule is made absolute to the aforesaid extent with no order as to costs.

8. Copy of this judgment be given to learned AGP Ms.Nandini Joshi.

(P.B.MAJMUDAR, J.)

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